

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FOUNTAIN VALLEY SCHOOL
DISTRICT.

OAH CASE NOS. 2013110142 and
2013090553

ORDER GRANTING MOTION TO
CONSOLIDATE

On September 18, 2013, the Fountain Valley School District (District), through counsel, filed with the Office of Administrative Hearings (OAH) a Complaint for Due Process Hearing (District Complaint) that named Student. OAH assigned the District Complaint case number 2013090553. Currently pending in the District Complaint is a prehearing conference set for December 6, 2013, and a due process hearing set for December 16-19, 2013.

On October 31, 2013, Student, through counsel, filed with OAH a Request for Due Process Hearing (Student Complaint) that named the District. OAH assigned the Student Complaint case number 2013110142. Currently pending in the Student Complaint is a prehearing conference set for December 20, 2013, and a due process hearing set for December 26, 2013.

On December 2, 2013, Student filed with OAH a Motion to Consolidate the Student and District Complaints. On December 4, 2013, the District filed with OAH a non-opposition to this request.

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Here, the Student and District Complaints involve common questions of law and fact. In both cases, there are issues concerning the appropriateness of a May 2013 triennial assessment of Student, and the appropriateness of Student's June 2013 IEP. Accordingly, consolidation is granted.

ORDER

1. Student's Motion to Consolidate is granted. OAH case numbers 2013090553 and 2013110142 are hereby consolidated.
2. All dates previously set in OAH case number 2013090553 (District Complaint) are vacated.
3. The currently scheduled prehearing conference and due process hearing dates in OAH case number 2013110142 (Student Complaint) shall become the hearing dates for the consolidated matters, subject to a request for continuance from the parties.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH case number 2013110142 (Student Complaint).

Dated: December 05, 2013

/s/

TIMOTHY L. NEWLOVE
Presiding Administrative Law Judge
Office of Administrative Hearings